

Introduction To Maritime Traffic Safety Law of PRC (As Amended 2021)

The newly amended Maritime Traffic Safety Law of PRC (hereinafter refer to as the “MTSL 2021”) will come into effect from 1 September 2021.

Background

Maritime Traffic Safety Law of 1983 (hereinafter refer to as the “MTSL 1983”) was enacted in 1983 and came into effect in 1984. The basic system of administration in China's maritime traffic safety has since then been established and effectively promoted the development of China's shipping industry. With the deepening of reform and the rapid economic and social development, the relevant contents of the MTSL 1983 could no longer adapt to the new situation and new requirements of maritime transportation and administration in respect of maritime traffic safety. The main legislative reasoning for the amendments to the previous law is as follows:

Firstly, the number of maritime vessels and facilities have increased significantly. The coastal waters are unprecedentedly busy, due to the increasingly complex maritime traffic environment and significantly increased safety risks. Thus, it is necessary to establish and improve the suitable regulatory system.

Secondly, maritime activities involve a wide range of areas and require professionalism. Certain procedures of maritime traffic safety rules need to be improved and standardized in accordance with the relevant laws and regulations in order to govern the practice of the administrative department of the maritime authorities.

Thirdly, most of the current articles concerning maritime traffic safety administration are provisions of general principles. In the process of implementation, certain problems have occurred, such as lack of clear legal basis and specific provisions, difficulty in implementing regulatory measures, etc. Therefore, the system design needs to be improved on basis of the past years' experience. Also, the pertinence and effectiveness of regulatory measures need to be enhanced.

Fourthly, maritime transport and traffic safety law are very international with strong foreign elements. In recent years, China has joined a number of international conventions on maritime traffic safety, which put forward new requirements for the administration of maritime traffic safety. Therefore it is necessary to revise and improve the existing laws so as to fulfill certain requirements and obligations under

the international conventions.

Under the circumstances, the Ministry of Transport studied and drafted the revision of the current law and submitted it to the State Council for approval. Upon repeatedly soliciting opinions from relevant departments and units of the central government, local people's governments and enterprises as well as the general public, the draft revision was formed and finalized.

Main contents of the revision

The MTSL 1983 consists of XII Chapters with 53 Articles while the MTSL 2021 consists of X Chapters with 122 Articles in total.

The main contents of the revision of the MTSL 2021 are as follows;

- (1) Optimizing the maritime traffic safety conditions and improving the security level.
- (2) Strengthening the administration of ships and crew members and standardizing the maritime traffic behaviors.
- (3) Strictly controlling administrative licensing matters and standardizing administrative acts of relevant authorities.
- (4) Improving the maritime search and rescue mechanism and the accident investigation and handling system.
- (5) Stipulating clear responsibilities for illegal acts, strengthening responsibility investigation, clarifying the arbitration procedures of civil disputes.

The MTSL 2021 contains many new provisions, including the rules concerning infectious disease of the crewmembers onboard (Article 40), measures to deal with the obstructions (Article 51), the classification of accident grade and conducting accident investigation (Articles 81 and 82), the time table of issuing the maritime traffic accident investigation report and report of determination of liability (Articles 85) and handling unseaworthy vessels or offshore facilities (Article 91).

In addition, Chapter IX (Legal Liability) of MTSL 2021 lists up the penalty range against the vessels or owners, managers or operators due to an illegal matter or violation of the laws. As can be seen, the amount of the penalty has increased significantly.

Apart from the above, the MTSL 2021 covers all the aspects of maritime industry, ship's navigation, berthing, operation and other maritime traffic-related activities. For the crewmembers on board and shipping companies engaging in business in China,

these provisions need to be carefully studied.

Comments

Compared with MTSL 1983, MTSL 2021 provides more detailed guideline/requirements on every aspect of the actions relating to navigation, operation of vessels and handling maritime accidents.

It is recommended that the owners, managers or operators of the vessels be more prudent in ship's navigation and operation, and keep close contact with local agent or correspondent in China in order to avoid any violation of the newly amended law.

Enclosure: English translation of the MTSL 2021.

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